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NATIONAL DESK**Gingrich Is Heard Urging Tactics in Ethics Case**

By ADAM CLYMER (NYT) 1537 words

Published: January 10, 1997

On the day in December when Newt Gingrich admitted bringing discredit on the House, his lawyer told Republican leaders that the Speaker had promised an ethics subcommittee not to use his office and his allies to orchestrate a Republican counterattack against the committee's charges.

That was part of the price for the subcommittee's agreement to accept his admission of guilt and spare him the potential humiliation of a full-scale public trial.

But that same day, even before the charges had been made public, Mr. Gingrich held a telephone conference call with other House leaders in which he made suggestions for a statement that the leaders would issue immediately after the subcommittee's charges were disclosed.

He also suggested the timing of various responses to Democratic attacks. The politicians agreed among themselves how they could use their opponents' comments to attack the subcommittee's findings indirectly without technically violating the agreement that Mr. Gingrich's lawyers made with the ethics subcommittee.

The call was taped by people in Florida who were unsympathetic to Mr. Gingrich and who said they heard it on a police scanner that happened to pick up the cellular telephone transmissions of one of the participants. It was given to a Democratic Congressman, who made the tape available to The New York Times. Mr. Gingrich's office today did not question the authenticity of the conversation, but insisted that it did not violate any agreement with the ethics subcommittee.

The Speaker and his allies acknowledged at the time that their conversation was a bit "premature," since the subcommittee had not yet even voted on the charges against Mr. Gingrich. Nevertheless, they talked about how to handle inevitable Democratic attacks, how to time the day's events with newspapers, news agencies and the evening television news in mind, and -- above all -- how to avoid making all that look as if Mr. Gingrich was pulling the strings.

In the Dec. 21 conversation, Mr. Gingrich's lawyer, Ed Bethune, said, "It is very important for me to be able to say to the special counsel and if necessary to the committee members that we -- and by that I mean the other attorney, Randy Evans, and I, and Newt -- have done everything in our power to try to stop all things that might be construed in any way as an orchestration attempt by Newt Gingrich."

Mr. Gingrich, Mr. Bethune and the others discussed their tactics in a conference telephone call, a transcript of which was made available by a Democratic Congressman hostile to Mr. Gingrich who insisted that he not be identified further.

The Congressman said the tape had been given to him on Wednesday by a couple who said they were from northern Florida. He quoted them as saying it had been recorded off a radio scanner, suggesting that one

participant was using a cellular telephone. They said it was recorded about 9:45 A.M. on Dec. 21.

The tape, in which the voices of Mr. Gingrich and other Republican leaders are clearly recognizable, was plainly a recording of a conversation that took place before the subcommittee released its charges and Mr. Gingrich's admissions.

The call capped a week of elaborate plea-bargaining over the framing of the charges -- and Mr. Gingrich's admission -- that the Speaker had brought discredit on the House by giving untrue information to the ethics committee and by failing to get proper legal advice about the way he used money from tax-exempt foundations for a college course and televised town meetings with political overtones.

Mr. Gingrich's admission of guilt avoided a full-scale trial in which the details would have been televised nationally. In return, the committee's special counsel, James M. Cole, insisted on a promise that the Speaker would not use his allies to mount a counterattack against the subcommittee's case, since its rules forbade Mr. Cole and members from answering such attacks.

The tone of the conversation was optimistic. The Speaker and the other leaders believed that a coordinated response could enable them to limit political fallout.

And the talk, one of many that day, ended on a light note. After the basic outlines of the statement the leaders would issue had been agreed on, Representative Dick Armey of Texas, the majority leader, had another suggestion for how Mr. Gingrich could handle the menacing accusation that he had deliberately lied to the committee: "I am not sure you are ready for this, but you could quote Larry Gatlin and the Gatlin Brothers."

Mr. Gingrich asked, "Which one is that?"

Mr. Armey warbled: "I did not mean to deceive you. I never intended to push or shove. I just wish that you was someone that I love."

Today, Lauren Maddox, a spokeswoman for Mr. Gingrich, defended the Speaker's role. She said: "Newt has always had the right to run for Speaker and campaign. Any statement he made was in no way undermining the work of the committee."

She added: "There was a specific agreement between Newt's lawyers and the special counsel that Newt could brief the leadership. And it was always understood that in turn, the leadership could respond in any way they thought was appropriate."

In the December conversation, Mr. Bethune said in a couple of hours, once the subcommittee announced its actions, "it would also be a time when we are authorized to have the conversation that we are having now, a little prematurely. But I don't think it would be troubling to anyone that we are a little ahead of the gun."

Mr. Cole would not comment today, but the conversation itself suggested that the situation at the time seemed more complicated than Ms. Maddox contended.

Mr. Bethune, who served with Mr. Gingrich in the House for six years and now practices law in Washington, made several efforts to outline the slippery path that all must follow. One ally asked him what the leaders should say about any agreement between Mr. Gingrich and the subcommittee.

The lawyer replied: "No. I didn't say there was an agreement. I said there was a delicate process under way and at this is what Newt is going to do, in response to the delicate process. There is no agreement, no deal. We are not authorized to say that.

"Now if I can be very delicate here. There is one other constraint," Mr. Bethune continued. "He can run for

Speaker, but he must maintain his confidentiality as far as public statements. And then, finally, Newt will not orchestrate, nor will he be -- he will not orchestrate any attempt to spin this in such a way that it belies what he is admitting today in the statement of alleged violations."

But having barred one door, Mr. Bethune opened a window. "Having served as a member," he said, "you know when documents become public, I as a member, am entitled to say whatever the hell I want to say about those public documents. I guess that applies to any of you all who may be listening."

The men also talked about how they could use Mr. Gingrich's main adversary, Representative David E. Bonior of Michigan, the House Democratic whip, as a springboard to make arguments that Mr. Gingrich's agreement with the subcommittee would otherwise preclude.

"We know that Bonior is going to be having a press conference shortly thereafter, alleging a bunch of things that go too far," said Ed Gillespie, communications director of the Republican National Committee. "Once he has kicked that off, that would give us an opportunity to then go back and refute what he has said, and we have not jumped the gun on opening and we have simply responded."

Mr. Gingrich praised the suggestion. "Ed's very clever," he said. "Bonior, he will undoubtedly say things that are not true, will exaggerate what the committee has done."

Representative Bill Paxon of upstate New York, a coordinator of moves by the Republican leadership in the House, said it was essential to have a quick response after the subcommittee released its material.

The Speaker suggested that a leadership response be put out by 2 or 3 P.M., within a couple of hours of his statement and the subcommittee's statement. "I'm not an expert," he said, but "at that point we're in by the evening news, catch the morning papers."

When the group went over the statement, with various suggestions offered about how to say that the Speaker had never intentionally misled the ethics committee..

The Speaker sought to end the cross talk by saying, "Why don't we pick up Ed's language: 'Although there is no charge that Newt intentionally misled the committee, Newt was responsible for the mistakes that were made?' "

Ultimately, the statement as issued changed a little. It said, "It should be noted, and is clear, he did not seek nor intend to mislead the committee."

Photo: Newt Gingrich greeting House members yesterday before the final count of the Electoral College. (Amy Toensing for The New York Times)

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NATIONAL DESK

Excerpts From Republican Leaders' Conference Call

(NYT) 1769 words

Published: January 10, 1997

Following are excerpts from a telephone conference call that Speaker Newt Gingrich had with other Republican leaders in the House and his lawyer Ed Bethune. A tape of the call was given to The New York Times by a Congressman who insisted on anonymity and who is hostile to Mr. Gingrich. The Congressman said the tape was given to him on Tuesday by a couple from northern Florida. They told the Congressman that the call was picked up and recorded from a police scanner on Dec. 21 about 9:45 A.M.

The recording does not begin with the start of the telephone call, in which the men are discussing an agreement Mr. Gingrich had made in which he promised not to orchestrate a Republican counterattack against ethics charges that were about to be filed against him.

GINGRICH But Ed, is Cole \$(James M. Cole, the ethics committee's special counsel\$) aware of our talk day?

BETHUNE He is aware that you are going to talk to the leadership. That is correct.

GINGRICH He was going to brief the subcommittee. The message we got yesterday was they fully expect me to campaign for Speaker, and that that in no way violates the agreement. So that stirring up support for me as Speaker in their judgment, as long as it isn't done in a way that undermines the committee.

BETHUNE Newt can campaign for Speaker, no problem. Newt cannot himself say anything publicly about this because that is what he has agreed. He will make no public statements.

GINGRICH Beyond the statement, we are releasing ----.\$(inaudible\$)

UNIDENTIFIED VOICE Can we characterize that agreement? That's an agreement as part of our ----.

BETHUNE No. I didn't say there was an agreement. I said there was a delicate process under way and that this is what Newt is going to do, in response to the delicate process. There is no agreement, no deal. We are not authorized to say that. Now if I can be very delicate here. There is one other constraint. He can run for Speaker, but he must maintain his confidentiality as far as public statements. And then, finally, Newt will not orchestrate, nor will he be -- he will not orchestrate any attempt to spin this in such a way that it belies what he is admitting today in the statement of alleged violations.

And so, now having said that, having served as a member, you know when documents become public, I as a member, am entitled to say whatever the hell I want to say about those public documents. I guess that applies to any of you all who may be listening. But we want the record to be absolutely \$(inaudible\$) and clear here that Newt is not, nor does he desire for anybody in his \$(inaudible\$) to go out and try to help him. As you saw this week, we had a bad press day on Friday because on Thursday some of our dearest friends went out with an

intention to help but in fact caused more harm than good. And, you know, with friends like that.

DICK ARMEY Ed, I think that the statement that Bill read though is in compliance with all those points.

OM DeLAY Sounds to me like you're just saying that it might sit better, and I think it wouldn't look like it was part of some cooked operation if it came maybe as part of a \$(inaudible\$).

UNIDENTIFIED VOICE I understand what you guys got to do in the Speaker's office. We cannot let a news cycle go by, not even let several hours go by.

ARMEY Right.

BILL PAXON So when the committee issues that report, before we have an immediate response. Because they will certainly have a war room set up on the other side, and if we have several hours or a day go by when our members are out there without response, it will be a disaster, that's right.

ARMEY And Bill, I think Bill's right on that. I think the statement as I recall hearing it is acceptable, and it probably could go a couple of hours.

PAXON When will we see your statement, Newt?

GINGRICH My guess is, and I think they are running about 15 minutes late, my guess is we will have our statement out before noon. And if there was a way, I'm not an expert, but if there was a way to have by two or three to have some kind of statement also on the wire.

ARMEY Oh, yeah.

MR. GINGRICH At that point we're in by the evening news, catch the morning papers.

BETHUNE Let me explain a technicality here which will help you all understand the time frame. Of course the subcommittee is bound to confidentiality by the rules of the committee until such time as an answer is filed. No answer has been filed. Because the subcommittee is meeting today, here, personally, because they are today voting the statement of alleged violations.

Obviously, you can't answer something until it has been voted. So they are meeting soon, as we speak, I guess. They will discuss and then vote the statement of alleged violations. That, the confidentiality rule is still in place until Newt files his answer. Newt is sending through me an answer that he is signing today, which essentially says I admit the statement of violations. I will hand carry that to the committee room and deliver it to the special counsel.

At that moment the committee is authorized to release its statement of alleged violations. But the committee does not wish to release its statement of violation at that point because it feels that it owes an obligation to the full committee members to give them a heads up about what they are about to do. And so they have asked for a two-hour embargo after we hand in our answer, during which time they contemplate a conference call to discuss with the full committee members all the ramifications of this, and that would be the first time the full committee members would hear whatever it is the subcommittee members intend to say to them.

And it would also be a time when we are authorized to have the conversation that we are having now, a little prematurely. But I don't think it would be troubling to anyone that we are a little ahead of the gun. We are also asked to embargo our response so that we don't get ahead of the committee.

ARMEY Ed, we all, guys, let me suggest this. I'd like to hear the statement one more time, and then perhaps what we could all, if we all think it is complete, agree to it, and let Ed then determine the appropriate time as

quickly as is appropriate that it be released. Does that work? Him being on the ground and having----

PAXON I don't know. Ed can you, can you be involved in orchest-----, you know, if we-----.

BETHUNE No, I think all I can do, Bill, is, Ed, tell me who to call, and I will say that it is now perfectly acceptable -- for-----.

GILLESPIE As soon as Ed gives us the word to put out the statement Mr. Paxon read, because we know that Bonior is going to be having a press conference shortly thereafter, alleging a bunch of things that go too far. Once he has kicked that off, that would give us an opportunity to then go back and refute what he has said, and we have not jumped the gun on anything and we have simply responded -----.

GINGRICH Ed's very clever \$(inaudible\$). Walker said why not have Bonior up for tomorrow, then, because he will undoubtedly say things that are not true, will exaggerate what the committee has done.

PAXON How do you expect to do it, at a press conference, or a statement, or, after Bonior?

GILLESPIE Yes, a press conference, right after -----.

DAN MEYER: Ed, tell me if this crosses the line. Is it possible to include in the statement that Bill read some language that says you know why he is taking responsibility although it is clear he never intended to mislead the committee? I'd fix it over to see if you could repeat that since, you know, it, it, members need to understand that, and it then will be fine.

BETHUNE Newt cannot be party to crafting any such or orchestrating, but as I said earlier, a member of Congress having received those documents is entitled to say whatever they want to about them.

PAXON We could say, we have every confidence that Newt did not intend to-----.

BETHUNE If I could strongly make this one point. It is very important for me to be able to say to the special counsel and if necessary to the committee members that we -- and by that I mean the other attorney, Randy Evans, and I, and Newt -- have done everything in our power to try to stop all things that might be construed in any way as an orchestration attempt by Newt Gingrich . . .

UNIDENTIFIED VOICE In his statement today, the Speaker accepted full responsibility for the mistakes he has made. He also showed that he remains an idealistic and determined leader, that he can learn from those mistakes. One month ago, we issued a statement pledging our political support for Newt's election as Speaker in the 105th Congress. Today, with the work of the subcommittee completed, we reiterate our political support. Now what do you want to add?

GINGRICH Why don't we pick up Ed's language: "Although there is no charge that Newt intentionally misled the committee, Newt was responsible for the mistakes that were made?"

GILLESPIE And something like: "With this now behind us, it is clear that Newt will be re-elected Speaker on Jan. 7.

ARMEY. I am not sure you are ready for this, but you could quote Larry Gatlin and the Gatlin Brothers.

GINGRICH. Which one is that?

ARMEY. "I did not mean to deceive you. I never intended to push or shove. I just wish that you was someone that I love."